

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MEXICO

AMCONSUL HERMOSILLO

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E.O. 11652:NA

TAGS: PINS

SUBJECT: PATTERSON KIDNAP/MURDER: UNITED STATES V. KEESEE

1. ON NOVEMBER 18-19, 1974 JUDGE LELAND NIELSEN, U.S. DISTRICT JUDGE FOR SOUTHERN DISTRICT OF CALIFORNIA, HELD HEARING ON 25 DEFENSE MOTIONS IN THE U.S. PROSECUTION OF BOBBY JOE KEESEE WHO IS UNDER A SEVEN COUNT INDICTMENT FOR THE KIDNAP/MURDER OF JOHN S. PATTERSON. THE USG INTEREST CENTERED PRINCIPALLY ON MOTIONS TO DISMISS THE KIDNAP AND MURDER COUNTS, WHICH ARE BASED ON GOVERNMENT'S ASSERTIONS OF JURISDICTION (1) TO TRY KIDNAPPING UNDER 18 U.S.C. 7 (SPECIAL MARITIME AND TERRITORIAL JURISDICTION OF THE UNITED STATES) INASMUCH AS KIDNAPPING WAS INITIATED IN CONSULATE AT HERMOSILLIO AND (2) TO TRY MURDER UNDER 18 USC 1111 AND 1114 (KILLING OF "ANY SECURITY OFFICER OF THE DEPARTMENT OF STATE OR THE FOREIGN SERVICE") IN VIEW OF PATTERSON'S APPOINTMENT AS SECURITY OFFICER FOR

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HERMOSILLIO CONSULATE. DEPUTY ASSISTANT SECRETARY VICTOR

DIKEOS AND ASSISTANT LEGAL ADVISER LOUIS G. FIELDS, JR., APPEARED AS GOVERNMENT WITNESSES IN SUPPORT OF PROSECUTION POSITION. AFTER HEARING TWO DAYS OF TESTIMONY AND ARGUMENT JUDGE NIELSEN DENIED DEFENSE MOTIONS TO DISMISS SUBSTANTIVE COUNTS. COUNTS 4, 5, AND 6 WHICH INVOLVED TRAVEL INTO MEXICO IN AID OF RACKETEERING (EACH CARRYING A MAXIMUM FIVE-YEAR SENTENCE), WERE DISMISSED. PROCEEDING

TO TRIAL WE NOW HAVE A 4-COUNT INDICTMENT; TO WIT: COUNT 1 - CONSPIRACY TO KIDNAP, COUNT 2 - KIDNAPPING, COUNT 3 - MURDER AND COUNT 7 - EXTORTION. COUNTS 1, 2 AND 3 EACH CARRY MAXIMUM SENTENCES OF LIFE IMPRISONMENT (THE JUDGE HAVING RULED CAPITAL PUNISHMENT NOT TO BE AVAILABLE TO THE CHARGES UNDER INDICTMENT) AND COUNT 7 CARRYING A MAXIMUM SENTENCE OF 20 YEARS.

2. THE COURT SET THE PRE-TRIAL CONFERENCE FOR THE WEEK OF JANUARY 27, 1975 AND THE TRIAL WILL COMMENCE ON FEBRUARY 17, 1975. IT IS ESTIMATED THAT THE TRIAL WILL LAST FROM 5 TO 7 WEEKS.

3. ASIDE FROM THE DENIAL OF MOTIONS CITED ABOVE, THE JUDGE GRANTED TWO MOTIONS WHICH WILL BE OF SPECIAL INTEREST TO THE EMBASSY. THESE INCLUDE (1) A MOTION TO PROVIDE EXPENSES FOR DEFENSE WITNESSES FROM MEXICO, WHICH THE COURT WILL ALLOW "IN REASONABLE AMOUNTS" AND (2) A MOTION TO PROVIDE FUNDS FOR A DEFENSE INVESTIGATION IN MEXICO, WHICH THE COURT AUTHORIZED "FOR ONE PERSON ONLY". AT THIS POINT WE ARE UNAWARE OF ANY DEFENSE WITNESSES FROM MEXICO; HOWEVER, THE INVESTIGATION FUNDED BY THE COURT MAY PRODUCE SOME. WE HAVE REASON TO BELIEVE THE DEFENSE COUNSEL JOHN CLEARY AND/OR WILLIAM GRAY, AN INVESTIGATOR FOR FEDERAL DEFENDERS, INC., WILL TRAVEL TO HERMOSILLIO, MEXICO AT SOME TIME BETWEEN NOW AND JANUARY 27, 1975 FOR THE PURPOSE OF CONDUCTING AN INVESTIGATION OF THE EVENTS SURROUNDING THE PATTERSON KIDNAP/MURDER. (FYI. FEDERAL DEFENDERS, INC., IS A NON-PROFIT ASSOCIATION OF PRIVATE ATTORNEYS WHO SERVE AS COURT-APPOINTED COUNSEL TO INDIGENT DEFENDANTS IN FEDERAL COURTS. IT OPERATES UNDER AUSPICES OF SAN DIEGO COUNTY BAR LIMITED OFFICIAL USE

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ASSOCIATION AND IS NOT, RPT NOT AN AGENCY OF USG, AS NAME MIGHT SUGGEST. END FYI) WE CAN ASSUME THAT THIS INVESTIGATION WILL COVER THE SAME GROUND AS THE USG/GOM INVESTIGATION INITIATED AT THE TIME OF THE INCIDENT WHICH IS STILL IN PROGRESS. THEY WILL UNDOUBTEDLY SEEK TO INTERVIEW WITNESSES, SUCH AS LUIS SANCHEZ AS WELL AS OTHER LOCAL EMPLOYEES AND U.S. PERSONNEL OF HERMOSILLIO CONSULATE. IT SHOULD BE POINTED OUT THAT SUCH INTERVIEWS

ARE PURELY VOLUNTARY AND ANY WITNESS MAY DECLINE TO BE INTERVIEWED. EMBASSY MAY ADVISE USG AND LOCAL EMPLOYEES OF THEIR RIGHTS WITH RESPECT TO BEING INTERVIEWED.

4. WE WILL ENDEAVOR TO PROVIDE TIMELY ADVICE ON DATE OF DEFENSE INVESTIGATION AND NAMES OF THOSE ON INVESTIGATION TEAM. CLEARY MAY SEEK TO COORDINATE

INVESTIGATION WITH MEXICAN AUTHORITIES, BUT THIS IS NOT A CERTAINTY. WHILE GOM IS FREE TO TAKE ANY POSITION WITH RESPECT TO THIS INVESTIGATION, IT WOULD BE REGRETTABLE IF GOM SHOULD ABSOLUTELY BAR CLEARY ET AL FROM MAKING ANY INQUIRY IN MEXICO.

5. ASSISTANT U.S. ATTORNEY STEPHEN G. NELSON, WHO IS CHIEF PROSECUTOR IN KEESEE CASE, HOPES TO VISIT HERMOSILLO AROUND THE MIDDLE OF JANUARY TO INTERVIEW PROSECUTION WITNESSES. INASMUCH AS COURT HAS RESERVED RULING ON DEFENSE MOTION TO SUPPRESS IDENTIFICATION OF KEESEE BY LUIS SANCHEZ, NELSON WILL WISH TO GO OVER TESTIMONY WITH SANCHEZ. HE WILL ALSO COORDINATE AVAILABILITY OF SANCHEZ PRIOR TO TRIAL IF JUDGE NIELSEN WISHES TO EXAMINE SANCHEZ ON VOIR DIRE PRIOR TO TRIAL. WE WILL PROVIDE MORE DEFINITE ADVICE ON DATES OF THE NELSON VISIT AND WHAT EMBOFFS SHOULD ARRANGE TO BE IN HERMOSILLO FOR HIS VISIT.

6. AS DEFENSE PLEADING RAISED ISSUE OF EXTRADITION, FIELDS TESTIFIED THAT, TO HIS KNOWLEDGE AND ON BASIS OF TELEPHONIC INQUIRY OF EMBASSY, NO REQUEST FOR EXTRADITION HAS BEEN FORWARDED BY GOM. FIELDS WAS INFORMED BY JOAN PATTERSON DEL POZZO IN SAN DIEGO THAT SUE PATTERSON WAS ADVISED BY GOM OFFICIAL NAZAR THAT REQUEST WAS IN LIMITED OFFICIAL USE

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PREPARATION AND WOULD BE TRANSMITTED IN NEAR FUTURE. SHOULD EMBASSY BE QUERIED ON USG POSITION ON EXTRADITION, IT SHOULD BE POINTED OUT THAT PENDING FEDERAL PROSECUTION IN SAN DIEGO WOULD NOT BAR USG FROM CONSIDERATION OF A GOM REQUEST. CLAUSE 4, ARTICLE III WOULD ONLY OPERATE TO BAR EXTRADITION OF PERSON CONVICTED OF CRIME FOR WHICH EXTRADITION IS SOUGHT AND IS UNDERGOING OR HAS UNDERGONE PUNISHMENT FOR THAT CRIME. MOREOVER, ARTICLE IV MAKES EXTRADITION OF ONE'S OWN CITIZENS DISCRETIONARY; HOWEVER, THERE IS AMPLE PRECEDENT FOR USG EXTRADITION OF U.S. CITIZENS. CARE SHOULD BE TAKEN NOT TO APPEAR TO BE SOLICITING A REQUEST NOR TO BE DISCOURAGING A REQUEST. USG WILL ENTERTAIN ANY REQUEST AND GIVE CAREFUL AND APPROPRIATE CONSIDERATION TO IT. INGERSOLL

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